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SERVICE DATE – DECEMBER 23, 2005

DO

FR-4915-01-P

Surface Transportation Board

[STB Finance Docket No. 34800]

Indiana & Ohio Railway Company—Trackage Rights Exemption—Fulton Railway Co.,  
Ltd.

Fulton Railroad Co., Ltd. (Fulton) has agreed to grant local and overhead trackage rights to Indiana & Ohio Railway Company (IORY), a Class III rail carrier, over Fulton's line of railroad from milepost 0.0 and continuing for 4,800 feet to the end of the track in the city of Cincinnati, Millcreek Township, Hamilton County, OH, a distance of 4,800 feet.

The transaction was scheduled to be consummated on or shortly after December 14, 2005. The purpose of the trackage rights is to enable IORY to enhance service.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34800, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Decided: December 16, 2005

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary